



DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

[Docket Number RHS-21-SFH-0017]

RIN: 0575-AD08

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development agency within the United States Department of Agriculture, is proposing to amend its regulations that would grant to Delegated Lenders participating in the Single-Family Housing Guaranteed Loan Program (SFHGLP) the authority to make loans and issue the Loan Note Guarantees after closing using automated loan underwriting and closing systems.

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments may be submitted electronically by the Federal eRulemaking Portal: Go to <http://www.regulations.gov> and in the “Search for Rules, Proposed Rules, Notices or Supporting Documents” box, enter the following docket number: (RHS-21-SFH-0017). To submit or view public comments, click “Search” button, select the “Documents” tab, then select the following document title: (Single Family Housing Guaranteed Loan

Program) from the “Search Results” and select the “Comment” button. Before submitting your comments, you may also review the “Commenter’s Checklist” (optional). Insert your comments under the “Comment” title, click “Browse” to attach files (if available). Input your email address and select “Submit Comment.” Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “FAQ” link.

Other Information: Additional information about Rural Development and its programs is available on the Internet at <https://www.rd.usda.gov>.

All comments will be available for public inspection online at the Federal eRulemaking Portal (<https://www.regulations.gov>).

FOR FURTHER INFORMATION CONTACT: Sara Thieleke, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, Rural Development, U.S. Department of Agriculture, STOP 0784, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250-0784. Telephone: (314) 457-5242; or email: sara.thieleke@usda.gov.

SUPPLEMENTARY INFORMATION:

Abbreviations

CFR	Code of Federal Regulations
DA	Delegated Authority
FHA	Federal Housing Administration
FR	Federal Register
OMB	Office of Management and Budget
RHS	Rural Housing Service
§	Section
SFHGLP	Single Family Housing Guaranteed Loan Program
UMRA	Unfunded Mandates Reform Act of 1995
U.S.C.	United States Code

Background

The RHS administers the Single-Family Housing Guaranteed Loan Program (SFHGLP) that provides a 90% Loan Note Guarantee to approved lenders in order to reduce the lender's risk of extending loans to low- and moderate-income households in rural areas. The current Agency process requires lenders to submit loan documentation for Agency review and approval at various stages. Lenders submit application and underwriting documentation to the Agency for review before the Agency issues a Conditional Commitment for a guarantee (See 7 CFR 3555.107(f)). After loan closing, lenders submit the closing documentation, certifications, and fees to the Agency for another review before the Agency issues the Loan Note Guarantee (See 7 CFR 3555.107(i) and (j)).

The process can be time-consuming, and given the growing demand for SFHGLP loans, the Agency proposes to change its regulation to streamline the process of approving SFHGLP loans and issuing Loan Note Guarantees.

Under section 201 of the Housing Opportunity Through Modernization Act of 2016 (Pub. L. 114-201), the Congress amended section 502 of the Housing Act of 1949 by adding a new subsection (h) authorizing the Secretary of Agriculture to delegate, in part or in full, the Secretary's guarantee authority to eligible lenders. Therefore, RHS proposes to revise the SFHGLP regulation at 7 CFR part 3555 by adding a section for delegated approval authority to Delegated Lenders. Although subsection (h) of section 502 of the Housing Act of 1949 cites the term "Preferred Lender", the term "Delegated Lender" will be used for the purpose of this proposal. Currently, the Agency does not delegate approval authority to any lender.

The need for delegated approval authority arises due to issues associated with efficiency for loan approvals. A Delegated Lender would need limited to no Agency

involvement in the pre-closing and post-closing Loan Note Guarantee approval process. These changes will accelerate approval processing timeframes to the benefit of applicants, Delegated Lenders, and the Agency. Under the proposed rule, lenders meeting certain criteria may receive delegated lender status that allows the Delegated Lender to approve SFHGLP loans and obtain Loan Note Guarantees with limited to no Agency involvement. Delegated Lenders would not need to submit a request for a Loan Note Guarantee, and the Conditional Commitment request and approval step would be eliminated.

The Department of Housing and Urban Development's Federal Housing Administration's (FHA) and the Department of Veterans Affairs' (VA) insurance and guaranty programs currently have delegated approval authority. FHA's Lender Insurance program, authorized by the National Housing Act section 256 (12 U.S.C. 1715z-21), and VA's Automatic Authority program, authorized by the Servicemen's Readjustment Act of 1944, (Pub. L. 78-346), permit lenders to obtain the insurance or guaranty certificates after underwriting and closing the loans with limited or no involvement of FHA or VA staff. Federal agencies have moved to the delegated process to leverage the processing power and expertise of private-sector lenders and to balance growing programs with decreasing federal administrative resources. The Agency is proposing to mirror the HUD/FHA and VA processes, to the extent feasible, in order to create efficiencies, better serve stakeholders, and reduce the burden on Agency resources.

Discussion of the Rule

Under the proposed rule, loan approval and issuance of the Loan Note Guarantee would be delegated to the Delegated Lender. Delegated Lenders would be required to use Agency automated loan underwriting and closing systems to originate, process, close, and service loan applications in accordance with the published regulations and handbook guidance. In this respect, the Delegated Lender will act as the Agency and would require

limited to no Agency involvement in the pre-closing loan approval process and post-closing issuance of the Loan Note Guarantee. The Delegated Lender would approve the loan in the Agency's automated system. With delegated authority, Conditional Commitments may not be required, and the provisions of § 3555.107(f) for issuance of the Conditional Commitment may not be applicable. After loan closing, Delegated Lenders would continue to adhere to the proper loan closing procedures under § 3555.107(i) and (j) for issuance of the Loan Note Guarantee. The Agency proposes to remove § 3555.107(i) (5) which provides lenders a self-certification option in lieu of submitting full documentation. Delegated Lenders will retrieve the Loan Note Guarantee from the Agency's automated system, which would have the same force and effect as a Loan Note Guarantee issued directly by the Agency. The Loan Note Guarantee would be supported by the full faith and credit of the United States, as provided in § 3555.108, regardless of whether the Loan Note Guarantee is obtained by a Delegated Lender through the Agency's automated system, or from the Agency directly. Therefore, unless provided otherwise or inapplicable, the Delegated Lender would be responsible for ensuring that both the applicant and the property meet the eligibility requirements and certification for the loan guarantee under subparts C, D, and E of 7 CFR part 3555 and the environmental requirements in § 3555.5.

The Agency proposes to modify the procedures for delegated lenders as follows:

Environmental Reviews—Delegated Lenders would be delegated the authority to perform the functions typically carried out by the Agency in order to comply with the environmental requirement responsibilities in § 3555.5 and 7 CFR part 1970, except in situations with extraordinary circumstances, as defined in 7 CFR 1970.52. Delegated Lenders would be required to be knowledgeable in reviewing and applying categorical exclusions as outlined under § 1970.51 and § 1970.53. While SFHGLP loans are generally considered categorical exclusions for environmental purposes, the Delegated Lender must notify the Agency if there is an extraordinary circumstance. The Agency will then decide the next best

course of action. If an environmental assessment or environmental impact statement is necessary and the Delegated Lender prepares such document, the Agency must independently evaluate such document. In addition, Delegated Lenders may seek the assistance of the Agency at any point during the environmental review.

Appraisal Reviews—Agency administrative appraisal reviews under § 3555.107(d)(4) would be inapplicable to loans approved under the proposed model. Delegated Lenders would be responsible for ensuring that appraisal reports meet all requirements under § 3555.107(d).

Application priority processing—The requirements under § 3555.107(a) for prioritizing applications would not apply to Delegated Lenders.

In addition, the proposed rule clarifies a Delegated Lender's responsibilities under the conflict-of interest-provisions at § 3555.8. When a conflict of interest is disclosed by either the borrower or a Rural Development employee as described under § 3555.8, the Delegated Lender is required to document the disclosure in the permanent loan file. Under the proposed rule, a Delegated Lender would still be responsible for documenting any conflict of interest. However, since Delegated Lenders would process pre-closing and post-closing activities with limited to no Agency assistance under the proposed rule, reassignment of the application would not be necessary as described under § 3555.8(d).

This proposed delegated authority model could reduce the pre-closing loan approval processing timeframe by 3 to 4 business days. Currently, approved lenders fully underwrite and approve an application prior to submitting the application to the Agency for a Conditional Commitment. Historically, the average loan processing time for the Agency to review an application and provide a response to the lender is 3 to 4 business days. Under delegated authority, the approved lender will be able to obtain the Conditional Commitment upon

completion of their underwriting and approval, eliminating the 3 to 4 business day Agency review time.

In addition, the proposed rule reduces post-closing issuance of the guarantee processing timeframes by an additional 3 to 4 business days. Historically, the Agency has taken on average 3 to 4 business days to process a request for a Loan Note Guarantee. Under delegated authority, the lender will retrieve their own Loan Note Guarantee from the Agency automated systems, eliminating the 3 to 4 business day Agency processing time. Combining the pre-closing loan approval processing timeframe and the post-closing issuance of the guarantee processing timeframe, a total of 6 to 8 business days could be eliminated with delegated authority.

Upon implementation, the Agency would be able to reallocate staff to mission-critical functions, such as portfolio risk management and expanded lender monitoring and oversight. The proposed changes, which align Agency processes with industry standards, create efficiencies and provide faster and better service to low- and moderate-income borrowers, resulting in earlier home move-in dates.

RHS proposes to delegate this type of pre-closing loan approval and post-closing guarantee issuance authority to Delegated Lenders that meet specific requirements for portfolio performance and underwriting capability. The Agency does not propose changing basic lender eligibility requirements, as outlined in 7 CFR 3555.51, "Lender Eligibility," but rather proposes to add a section to define a Delegated Lender as an entity with delegated authority (DA) approval.

RHS proposes to add § 3555.55, "Delegated Lenders," to delegate the authority to approve and execute loan guarantees with limited to no involvement of Agency staff. Proposed paragraphs (a) and (b) outline requirements for lenders to qualify for Delegated Lender status, which include meeting the general lender eligibility requirements in § 3555.51,

participation in the SFHGLP for at least the previous two years, and higher than average performance standards in delinquency, default, and loss claim rates for that two-year period prior to approval. Delegated Lenders would need to maintain general lender eligibility under § 3555.51 as well as the higher performance metrics in delinquency, loss claim, and default rates to retain delegated lender status, which would be evaluated every two years. The Agency may adjust, modify, or cancel the delegated lender program based on overall program considerations such as budget, program performance, and program integrity. In the event that modifications are made to the performance metrics for new Delegated Lenders, existing Delegated Lenders would retain their status, and the Agency would provide a reasonable timeframe to meet the new performance metrics in order to continue retaining delegated lender status. The Agency would perform a controlled rollout for the delegated authority of Delegated Lenders to foster a smooth implementation. The rollout will be phased-in to allow the Agency some control over the number of loans guaranteed by Delegated Lenders over a period of at least three years after the final rule is published. The top 10 percent performing lenders will be in the first phase of the rollout for participation. The Agency will then evaluate the performance of the process, the efficiency of the process, and necessary adjustments. The Agency will continue to phase in new lenders as the process is refined. The number of lenders approved for delegated lender status will be contingent on the progress of the Agency's systems modifications, budgetary constraints, portfolio performance, and availability of resources required to perform lender oversight and monitoring. Full implementation is expected by the end of the third year.

Proposed paragraphs (a) and (b) outline the conditions under which a lender's delegated status may be removed. As stated in proposed paragraph (a), the Agency would have the right to terminate any lender's delegated status for reasons including, but not limited to, approving loans that do not meet Agency loan program guidelines, entering data into the Agency's automated underwriting system which is not supported by documentation retained

by the lender, maintaining a portfolio that does not meet the established delinquency, loss claim, and default rate performance metrics, and an inability to meet the criteria described in § 3555.51, “Lender Eligibility.”

The Agency proposes ongoing monitoring and oversight for Delegated Lenders from two perspectives: (1) Monitoring Performance—regular collection and analysis of loan level data and performance, and (2) Lender Oversight—on-site and off-site reviews and examinations.

(1) Monitoring Performance

Loan level data is collected from lenders each month through the Electronic Status Reporting system. This data is compiled, reviewed, and monitored by the Agency every month to determine portfolio performance as well as risks and trends in delinquency, default, and loss claim rates. This loan level data would be collected and analyzed for Delegated Lenders and provide the Agency with information regarding the performance of Delegated Lenders.

(2) Lender Oversight (LO) reviews/examinations

The Agency’s Quality Assurance and Lender Oversight Division will institute a regular LO process specifically for Delegated Lenders to ensure adherence to Agency loan program requirements found at 7 CFR 3555 and continuing eligibility for the program. The process will consist of reviews/examinations of multiple elements of the mortgage origination and servicing processes based on the review of a representative sample of loans, financial requirements, and portfolio performance. The Agency will perform these reviews every two years or more frequently, as determined by the Agency, on lenders that originate more than 50 loans and/or service more than 200 loans per year. The Agency would review a stratified random sample of no less than two percent of loan files originated by Delegated Lenders. A report would be provided, and findings and observations would be recorded and reported back

to the lender, along with any suggestions for improvement. If necessary, the lender would have the opportunity to use a Corrective Action Plan (CAP) to resolve any deficiencies; they would be counseled, offered training, and given the opportunity to improve. Recurring findings identified through the LO process may result in additional reviews/examinations and may adversely affect their delegated lender status.

To bolster the Agency's efforts to perform robust monitoring and lender oversight across the program (not just for Delegated Lenders), the proposed rule also eliminates the self-certification option at § 3555.107(i)(5). The Agency is unaware of any lenders using the option to self-certify instead of submitting complete loan closing documentation. Furthermore, the Agency has determined that such option would be inappropriate in balancing streamlining of the program with risk mitigation and proposes to eliminate the option so that the Agency would have easier and direct access to loan documents.

The proposed § 3555.55(c)(4) would provide the Agency with the authority to revoke the delegated lender status of those lenders that fail to meet the delegated lender criteria. This revocation is distinct from termination of the program as an approved lender under § 3555.52. However, if the Agency pursues termination of a Delegated Lender's participation under § 3555.52, the Agency need not separately pursue a separate revocation of delegated lender status, as termination from the program would automatically revoke delegated lender status.

Taken together, this proposed rule would continue the Agency's efforts to streamline and improve delivery of the SFHGLP while providing measures to mitigate risk. Agency approval of a lender for Delegated Authority does not create or imply a warranty or endorsement by the Agency of the approved lender, or its employees, nor does it represent a warranty of any service provided by the lender or any employee of the lender.

Request for Comment

Stakeholder input is vital to ensure that implementation of the proposed rule would continue to support the Agency's mission, while ensuring that new regulations and policies are reasonable and do not overly burden the Agency's lenders and their customers.

Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] and may be submitted electronically by going to the Federal eRulemaking Portal: <http://www.regulations.gov>. Details on how to submit comments to the Federal eRulemaking Portal are in the **ADDRESSES** section of this proposed rule.

The following questions and discussion items are posed to guide stakeholder comments. Where possible, RHS requests that comments include specific suggestions regarding ways to improve the proposal. RHS welcomes pertinent comments that are beyond the scope of these questions.

1. The Agency is proposing a controlled rollout of delegated authority, phasing in Delegated Lenders over a three-year period. The three-year period is intended to ensure the process of adding lenders is done using a controlled method to identify and address any concerns or questions that may arise. Is a three-year rollout period appropriate?

2. The Agency is proposing to define the eligibility criteria for Delegated Lenders to include participation in the SFHGLP for at least the previous two years,¹ as well as higher than average performance standards in delinquency, default, and loss claim rates for the two-year period prior to approval. Are there additional criteria that should be considered?

3. Is it important that Delegated Lenders retain the option to submit loan applications to the Agency for review and approval under the current process, at their discretion?

¹Consistent with OMB Circular A-129, the Agency reviews lender eligibility every two years. Therefore, the two-year participation minimum would ensure that a lender has gone through at least one lender recertification process, providing an additional review of the lender's processes prior to being eligible for this increased authority.

4. The Agency has identified the following alternatives to the rule:

a. Rather than delegate the complete loan approval process to Delegated Lenders, the Agency could delegate the initial underwriting review and issuance of the Conditional Commitment, leaving the responsibility for issuance of the Loan Note Guarantee with the Agency.

b. The Agency could assign the post-closing issuance of the Loan Note Guarantee to Delegated Lenders, with the initial review, approval, and issuance of the Conditional Commitment remaining an Agency responsibility.

Are there additional alternatives that could be considered? Is there a preference between the process identified in the proposed rule versus the alternatives?

5. The Agency has identified the following benefits to Delegated Lenders, borrowers, and the Agency.

a. A time savings for Delegated Lenders and borrowers, as intervention by the Agency at origination through closing would be limited, resulting in fewer delays experienced through the loan origination process.

b. A cost savings to Delegated Lenders, as several Agency forms would be eliminated from the process.

c. A cost savings to the Agency due to the streamlining of activities, allowing a reallocation of resources to other important initiatives.

Are there additional benefits of implementing this proposed rule that have not been identified?

6. Delegated Lenders will realize a time savings of approximately 3 to 4 business days for Conditional Commitment requests and an additional 3 to 4 business days for Loan Note

Guarantee requests. What is the estimated cost savings that will be realized by Delegated Lenders with this reduction in Agency processing time?

7. Consistent with current Agency procedures, the Agency is proposing to review a stratified random sample of two percent of delegated authority loans post-closing to evaluate lender performance. Is two percent a reasonable expectation?

8. Consistent with OMB Circular A-129, the Agency is proposing to review the delegated lender status of participating lenders every two years. Is this a reasonable expectation?

9. The Agency expects to use existing processes and technology systems, with substantial modifications, to implement this proposal. As described in the Regulatory Impact Analysis, the Agency does not anticipate the provisions to result in significant new costs, such as additional training, staff time, or staff hires, for the lender. However, the Agency requests comment on its evaluation of potential costs. In particular, is there any data available regarding the costs of implementing this proposal for the public that the Agency hasn't considered?

10. The Agency's proposal is intended to mirror HUD/FHA and VA processes, to the extent feasible. Are there additional changes that could be made to assist in reconciling these delegated approval processes?

Statutory Authority

The Housing Opportunity Through Modernization Act of 2016 (Pub. L. 114-201) and Section 510(k) of Title V of the Housing Act of 1949 (42 U.S.C. 1480(k)), as amended, authorizes the Secretary of the Department of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Orders 12866 and 13563

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if a regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

In accordance with Executive Order 12866, a Regulatory Impact Analysis was completed, outlining the costs and benefits of implementing this program in rural America. For a complete analysis, please see the Regulatory Impact Analysis on <http://www.regulations.gov> using docket number RHS-21-SFH-0017.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all state and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry federal requirements. No person is required to apply for funding under SFHGLP, but if they do apply and are selected for funding, they must comply with the requirements applicable to recipients of SFHGLP federal financial assistance, including all applicable nondiscrimination federal laws and regulations. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for federal agencies to assess the effect of their regulatory actions on state, local, and tribal governments, and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “federal mandates” that may result in expenditures to state, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, and tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, this final rule has been reviewed in accordance with 7 CFR part 1970 (“Environmental Policies and Procedures”). The Agency has determined that i) this action meets the criteria established in 7 CFR 1970.53(f); ii) no extraordinary circumstances exist; and iii) the action is not “connected” to other actions with potentially significant impacts, is not considered a “cumulative action” and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. This rule does not impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The North American Industry Classification System (NAICS) classifies small lenders in the following categories:

NAICS CODE	NAICS U.S. Industry Title	Size Standards In Millions of Dollars
522120	Savings Institutions	\$600 million in assets
522130	Credit Unions	\$600 million in assets
522190	Other Depository Credit Intermediation	\$600 million in assets
522292	Real Estate Credit	\$41.5
522310	Mortgage and Nonmortgage Loan Brokers	\$8.0

This proposed rule affects lenders that utilize the SFHGLP and any potential lenders that may utilize the program in the future. There are approximately 1,864 lenders currently approved to utilize the SFHGLP. The Agency does not maintain data that identifies the number of approved lenders that would be considered small lenders, as defined above. However, it is estimated that less than 3% of approved SFHGLP lenders meet the criteria of a small lender.

The proposed rule is an enhancement to the SFHGLP, providing an opportunity for participating lenders to obtain delegated loan approval authority. Applying to become a Delegated Lender is optional. Small lenders, as described above, will be afforded the same

opportunities to become a Delegated Lender as large lenders. Lenders who choose not to pursue delegated authority will continue to operate as they do today.

All lenders are required to maintain a permanent loan file on each individual guaranteed borrower. This will remain a requirement for lenders utilizing delegating authority, as well as those who do not. This is typical for any mortgage loan product and is an action that is completed in a lenders' normal course of business. This requirement is consistent with standard mortgage industry practices and represents no additional burden of recordkeeping placed upon the lender or public.

The qualifying factors involved in becoming a Delegated Lender will be based on a lender's loan performance using the same criteria regardless of the size of the lender. There are no costs assessed to lenders to apply for delegated authority, to continue participation in the program, or to receive Agency training.

The undersigned has determined and certified by signature on this document, that this rule will not have a significant economic impact on a substantial number of small entities, since this rulemaking action does not involve a new or expanded program, nor does it require any more action on the part of a small business than would be required of a large entity.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is not subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," as implemented under USDA's regulations at 7 CFR part 3015.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that this proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on

either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this proposed rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this proposed rule, they are encouraged to contact USDA's Office of Tribal Relations or Rural Development's Native American Coordinator at (720) 544-2911 or AIAN@usda.gov to request such a consultation.

Civil Rights Impact Analysis

Rural Development has reviewed this proposed rule in accordance with USDA Regulation 4300-4, "Civil Rights Impact Analysis," to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, disability, or marital or familial status. Based on the review and analysis of the rule and all available data, issuance of this Final Rule is not likely to negatively impact low- and moderate-income populations, minority populations, women, Indian tribes, or persons with disability, by virtue of their age, race, color, national origin, sex, disability, or marital or familial status.

Programs Affected

The program affected by this proposed rule is listed in the Assistance Listing (AL) (*formerly Catalog of Federal Domestic Assistance*) Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection activities associated with this rule are covered under OMB Control Number 0575-0179. This proposed rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995. It is anticipated that Agency forms currently required would be eliminated for Delegated Lenders.

As a result, the Agency anticipates a reduction in recordkeeping requirements upon implementation of this rule.

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

USDA Non-Discrimination Policy

In accordance with Federal civil rights laws and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

In accordance with EO 13166, Improving Access to Services for Persons with Limited English Proficiency, program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form *AD-3027, USDA Program Discrimination Complaint Form*, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, from any USDA office, by calling

(866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW.
Washington, D.C. 20250-9410; or
- (2) Fax: (833) 256-1665 or (202) 690-7442; or
- (3) E-mail: Program.Intake@usda.gov

USDA is an equal opportunity provider, employer, and lender.

List of Subjects in 7 CFR Part 3555

Administrative practice and procedure; Business and industry; Conflicts of interest; Credit, Environmental impact statements; Fair housing; Flood insurance; Grant programs-housing and community development; Home improvementLoan programs – Housing and community development; Low- and moderate-income housing; Mortgages; Reporting and recordkeeping requirements; Rural areas.

For the reasons discussed in the preamble, the Agency is proposing to amend 7 CFR part 3555 as follows:

PART 3555 – GUARANTEED RURAL HOUSING PROGRAM

1. The authority citation for part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 et seq.

Subpart A – General

2. Amend § 3555.10 by adding the definition of “Delegated Lender” to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

Delegated Lender is an entity that meets the requirements under § 3555.51 and has been delegated authority by the Agency to underwrite and approve loans that meet the requirements of this part without prior review and approval by Agency staff, unless provided otherwise in this part.

* * * * *

Subpart B – Lender Participation

3. Add § 3555.55 to subpart B to read as follows:

§ 3555.55 Delegated Lenders.

(a) The Agency may approve certain lenders for Delegated Lender status as defined in § 3555.10. The Delegated Lender assumes the responsibility for meeting all loan requirements on behalf of the Agency for the purposes of pre-closing loan processing, loan approval, and post-closing issuance of loan guarantee under subparts C, D and E of this part with the following exceptions and clarifications:

(1) Application priority processing procedures under § 3555.107(a) are not applicable to applications processed by Delegated Lenders.

(2) Delegated Lenders must ensure appraisals meet the requirements under § 3555.107(d); however, loans made by Delegated Lenders are not subject to Agency administrative appraisal reviews prior to loan approval under § 3555.107(d)(4).

(3) Conditional Commitments under § 3555.107(f) may not be applicable to Delegated Lenders.

(b) The following regulatory provisions in subpart A are not applicable to Delegated Lenders or are modified as described below:

(1) Applications processed by Delegated Lenders with a conflict of interest under § 3555.8 are not subject to the requirements under § 3555.8(d). The other paragraphs in § 3555.8 still apply.

(2) Delegated Lenders will perform environmental reviews under § 3555.5 and 7 CFR part 1970 prior to loan approval. Delegated Lenders must be knowledgeable in reviewing and applying categorical exclusions as outlined under 7 CFR 1970.51 and 1970.53. The Delegated Lender must notify the Agency if there is an extraordinary circumstance as defined in 7 CFR 1970.52 so that the Agency may determine the appropriate course of action. If an environmental assessment or environmental impact statement is necessary and the Delegated Lender prepares such document, the Agency will independently evaluate such document.

(c) *Eligibility.* Lenders must be approved to participate in the SFHGLP as provided in § 3555.51 and meet the following requirements:

- (1) Have participated in the SFHGLP for at least the previous two years.
 - (2) Met the performance standards established by the Agency for delinquency, default, and loss claims for the previous two years; and
 - (3) Complete Agency sponsored training each year.
- (d) Delegated lenders must use the Agency's automated underwriting system as described in § 3555.107(b).

(e) *Oversight.* The Agency will monitor lender performance through the regular use of loan level data and lender oversight and monitoring reviews/examinations. If the lender is unwilling or unable to improve performance within an acceptable timeframe, the Agency may revoke Delegated Lender status.

(f) *Termination of Delegated Authority.* (1) The Agency may terminate the lender's delegated status for reasons including, but not limited to:

- (i) Approving loans that do not meet Agency guidelines.
- (ii) Entering data into the Agency's automated underwriting system which is not supported by documentation retained by the lender.
- (iii) Unacceptable portfolio performance as evidenced by delinquency, loss claim, default rates, material deficiencies, or any other performance metric established by the Agency; and
- (iv) Noncompliance with other requirements described in § 3555.51, or if the Agency determines that other good cause exists.

(2) Termination of a Delegated Lender's participation in the SFHGLP under § 3555.52 automatically revokes Delegated Lender status without separate Agency action under paragraph 3555.52(g).

(g) *Revocation of Delegated Status.* Delegated Lenders will retain delegated status until revoked by the Agency or withdrawn by the lender. If the Agency revokes the delegated authority of a Delegated Lender, the Delegated Lender will be given appeal rights as specified in § 3555.4. This is distinct from termination from participation in the SFHGLP under § 3555.52.

(h) *Administration of Delegated Program.* The Agency may adjust, modify, or cancel the Delegated Lender program based on overall program considerations such as budget, program performance, and program integrity.

§§ 3555.56-3555.99 [Reserved]

4. Reserve §§ 3555.56-3555.99

* * * * *

Subpart C – Loan Requirements

§ 3555.107 [Amended]

5. Amend § 3555.107 by removing paragraph (i)(5).

* * * * *

Joaquin Altoro,

Administrator,

Rural Housing Service.

[FR Doc. 2022-16637 Filed: 8/3/2022 8:45 am; Publication Date: 8/4/2022]